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FILED
SEP - 4 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. MIGUEL ANGEL RUIZ MATA, Defendant.	Criminal Case No. 08CR2558-W **STIPULATION OF FACT AND JOINT MOTION FOR RELEASE OF MATERIAL WITNESS AND ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Luella M. Caldito, Assistant United States Attorney, and defendant Miguel Angel Ruiz-Mata, by and through and with the advice and consent of defense counsel, Nancy Rosenfeld, that:

1. Defendant agrees to execute this stipulation on or before the disposition hearing and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it.

2. The material witness, Jesus Guzman-Gallardo in this case:

a. Is an alien with no lawful right to enter or remain in the United States;

b. Entered or attempted to enter the United States illegally on or about July 21, 2008;

c. Was found in a vehicle driven by defendant in the Southern District of California and that defendant knew or acted in reckless disregard of the fact that he was an alien with no lawful right to enter or remain in the United States;

d. Was paying or having others pay on his behalf $1,600 to others to be brought into the United States illegally and/or transported illegally to his destination therein; and,

e. May be released and remanded immediately to the Department of Homeland Security for return to his country of origin.

3. After the material witness is ordered released by the Court pursuant to this stipulation and joint motion, if defendant withdraws his guilty plea to the charge set forth above, defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

a. The stipulated facts set forth in paragraph 2 above shall be admitted as substantive evidence;

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant waives the right to confront and cross-examine the material witness(es) in this case.

4. By signing this stipulation and joint motion, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant certifies further that defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness to the Department of Homeland Security for return to their country of origin.

It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

Dated: September 3, 2008

LUELLA M. CALDITO
Assistant United States Attorney

Dated: 9-02-08.

NANCY ROSENFELD
Defense Counsel for Miguel Angel Ruiz-Mata

Dated: 9-02-08.

MIGUEL ANGEL RUIZ-MATA
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witnesses be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: SEP - 4 2008.

HONORABLE THOMAS J. WHELAN